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Before the
FEDERAL COMMUNICATIONS COMMISSION

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as a whole. The proposal, however, does not go far enough. As AT&T demonstrated in the Price Cap Performance Review,⁴ price cap regulation of AT&T is a costly anachronism in light of today's pervasive interexchange competition. Examination of the Commission's rationale for the new services requirements illustrates the unnecessary nature of those requirements for AT&T.

The Commission explains in the NPRM that it requires the filing of new service reports to encourage carriers to make accurate forecasts and to "give[] the Commission some perspective on whether these services have satisfied customer needs."⁵ Such regulatory oversight is unnecessary for AT&T; the market provides powerful incentives for AT&T to forecast customer demand accurately, and there is no need for the Commission to second-guess whether AT&T is meeting the needs of customers.

The Commission has long recognized that competition is superior to regulation in ensuring that firms operate efficiently and offer products need by consumers.⁶ Moreover, the Commission has acknowledged that "competition

⁴ AT&T Comments, Price Cap Performance Review For AT&T, CC Docket No. 92-134 (filed Sept. 4, 1992).

⁵ NPRM, ¶¶. 2-3.

⁶ See, e.g., Policy and Rules Concerning Rates and Facilities Authorizations For Competitive Carrier Services, 85 F.C.C.2d 1 (1980).

in the interexchange market" is now "robust."⁷ If AT&T fails to meet the needs of its customers, those customers will use the services of other carriers. In the face of competitive forces, AT&T alone bears the risk of any inaccurate forecasts of the needs of its customers.

If the Commission continues price cap regulation of any AT&T services (which it should not), it should do more than simply change the new service reporting requirements. Instead, the Commission should issue a further notice of rulemaking expanding this proceeding to modify the "new service" definition for AT&T's services. Specifically, the Commission should: (i) clarify and narrow the definition of "new services" for AT&T; and (ii) eliminate more of the regulatory burdens on the introduction of new AT&T services.

Under the Commission's current rules, price reductions that offer additional pricing alternatives for consumers are treated as "new" services. AT&T does not receive price cap credit for these additional new services even though new pricing options are usually simply price reductions. Thus, the existing new service classification provides counterproductive incentives for AT&T not to increase the pricing options available to consumers. AT&T

⁷ Tariff Filing Requirements for Interstate Common Carriers, 7 FCC Rcd. 8072, 8079 (1992). Accord Competition in the Interstate Interexchange Marketplace, 6 FCC Rcd. 5880, 5908 (1991) ("IXC Rulemaking Order").

purpose of these burdensome requirements is to prevent AT&T from pricing its new services predatorily.⁹ These rules serve only to increase AT&T's costs, discourage the introduction of new services, and reveal AT&T's revenue projections to competitors. Today's competitive interexchange marketplace eliminates even any theoretical incentive for predatory pricing. As the Supreme Court has recognized, predatory pricing is virtually never rational behavior because competition will not permit a firm to recover the losses from predation by means of subsequent supra-competitive prices.¹⁰ Moreover, the Commission has recognized that post-tariff effectiveness review procedures, including the complaint process, can effectively address claims of unlawfulness.¹¹

⁹ Policy and Rules Concerning Rates for Dominant

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CONCLUSION

To encourage the development of innovative new
technologies and services, the Commission should eliminate

CERTIFICATE OF SERVICE

I, Helen Dalba, hereby certify that a true copy of the foregoing Comments of American Telephone and Telegraph Company was this date served by first class mail, postage prepaid, upon each of the following persons:

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